

These exemptions were conditioned on, among other things, compliance with all rules adopted by the Secretary of the Treasury pursuant to section 15C(b) of the Exchange Act,<sup>15</sup> including all applicable net capital regulations.

The Commission thus has received several requests for exemptions concerning this class of securities in a relatively short time, and the Appropriations Act contemplates the refinancing of numerous additional FMS loans. Accordingly, the Commission has determined to delegate its exemptive authority under section 15(a)(2)<sup>16</sup> to the Director of the Division of Market Regulation with respect to securities principally backed by a guaranty of the United States. The delegation of this authority will conserve the resources of the Commission and the Division, because the staff will not be required to present requests for such exemptions to the Commission itself for resolution.<sup>17</sup>

The Commission finds, in accordance with section 553(b)(A) of the Administrative Procedure Act,<sup>18</sup> that this amendment relates solely to agency organization, procedure, or practice, and does not relate to a substantive rule. Accordingly, notice, opportunity for public comment, and publication of the amendment prior to its effective date are unnecessary.

**List of Subjects in 17 CFR Part 200**

Administrative practice and procedure, Securities. Text of Amendment.

The Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations as follows:

**PART 200—ORGANIZATIONS; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS**

**Subpart A—Organization and Program Management**

1. The authority citation for Part 200, Subpart A, continues to read as follows:

**Authority:** Secs. 19, 23, 48 Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855, 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11 \* \* \*

2. 17 CFR 200.30-3 is amended by adding new paragraph (a)(47) to read as follows:

**§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.**

\* \* \* \* \*  
 (a) \* \* \*  
 (47) Pursuant to section 15(a)(2) of the Act, 15 U.S.C. 78o(a)(2), to review and, either unconditionally or on specified terms and conditions, grant exemptions from the broker-dealer registration requirements of section 15(a)(1) of the Act, 15 U.S.C. 78o(a)(1), to government securities brokers or government securities dealers that have registered with the Commission under section 15(a)(2) of the Act, 15 U.S.C. 78o-5(a)(2), solely with respect to effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security principally backed by a guaranty of the United States.  
 \* \* \* \* \*

By the Commission.  
 Dated: December 12, 1988.

Jonathan G. Katz,  
 Secretary.  
 [FR Doc. 88-29337 Filed 12-21-88; 8:45 am]  
 BILLING CODE 8010-01-M

**DEPARTMENT OF THE TREASURY**

**Bureau of Alcohol, Tobacco and Firearms**

**27 CFR Part 9**

[T.D. ATF-279; RE: Notice No. 655]

**Fredericksburg in the Texas Hill Country Viticultural Area**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

**ACTION:** Final rule, Treasury decision.

**SUMMARY:** This final rule establishes a viticultural area known as Fredericksburg in the Texas Hill Country which is located in Gillespie County, Texas. The petition was submitted by Mr. Karl W. Koch of the Pedernales Vineyards. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will help winemakers distinguish their products from wines made in other areas.

**EFFECTIVE DATE:** January 23, 1989.

**FOR FURTHER INFORMATION CONTACT:** Robert L. White, Wine and Beer Branch, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7626).

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

**Petition**

Mr. Karl W. Koch of the Pedernales Vineyards petitioned ATF to establish a viticultural area in Gillespie County, Texas, to be known as "Fredericksburg in the Texas Hill Country." This viticultural area is located entirely within Gillespie County in the central part of the State approximately 80 miles west of Austin. The viticultural area consists of approximately 110 square miles. There are approximately eight vineyards in the area which are devoted to wine grapes with a total of about 50 acres under cultivation. Additionally, there are many commercial peach growers in the area with test plantings of grapes. In response to this petition, ATF published a notice of proposed rulemaking, Notice No. 655, in the Federal Register on February 19, 1988 (53 FR 4999), proposing the establishment of the Fredericksburg in the Texas Hill Country viticultural area.

**Comments**

Two comments were received during the comment period. One comment was from Mr. Robert P. Oberhelman of Oberhellmann Vineyards. The other comment was from Mr. Ned E. Simes of Grape Creek Vineyard.

Both commenters opposed the name "Fredericksburg in the Texas Hill Country" for the following reasons:

(1) The area boundaries proposed actually identifies the Pedernales Valley which has been the recognized name for this area since the time of the Spanish

<sup>15</sup> 15 U.S.C. 78o-5(b).

<sup>16</sup> 15 U.S.C. 78o(a)(2).

<sup>17</sup> In any particular case where the Director believes it appropriate, the Director still may submit a request for an exemption to the Commission. 17 CFR 200.30-3(g).

<sup>18</sup> 5 U.S.C. 553(b)(A).

explorers. The name "Fredericksburg" would be confusing since it identifies only the urban area and the center of commerce for Gillespie County and the Pedernales Valley.

(2) The name "Fredericksburg" has never been used to identify the name outside the limits of the city. The name "Fredericksburg" was used by the early settlers for their settlement, and not for the area.

(3) The term "Hill Country" is an informal one for the Edwards Plateau or the Balcones Escarpment. Only these two neames are used on geographical maps to identify this large area.

Mr. Simes further stated that even the residents of Texas cannot agree upon the boundaries of the "Hill Country." ATF conducted an independent investigation as to whether the proposed viticultural area is locally and/or nationally known as "Fredericksburg in the Texas Hill Country." Numerous people were interviewed including the petitioner, the two commenters, several members of the Fredericksburg Chamber of Commerce, and several of the residents both within and outside the city limits of Fredericksburg. Also, the county extension horticulturist and an employee from the Soil Conservation Service were interviewed.

All of the people interviewed, with the exception of the two commenters, stated that they felt the area within the boundaries of the viticultural area is considered the Fredericksburg area. This finding is further verified by the extent of the area which makes up the Fredericksburg telephone exchange in the local phone book and by the extent of the area which is considered the Fredericksburg school district. It is possible that the name "Pedernales Valley" could have been used for this area but the use of this name would have resulted in the boundaries of the Fredericksburg area having to be greatly extended. In addition, many of the residents of the Fredericksburg area consider the name "Pedernales Valley" to be more representative of the area further down the Pedernales River toward Austin. This area down river has a somewhat lower elevation than the Fredericksburg area.

We agree that the term "Texas Hill Country," or just "Hill Country," is an informal one for the Edwards Plateau or the Balcones Escarpment. However, the term "Hill Country" is widely used in the State of Texas and the State is encouraging its use as a way to advertise the area. While it is true that even the residents of Texas cannot agree upon the boundaries of the "Hill Country," it is also true that the Fredericksburg area is always included

in the "Hill Country" no matter whose boundary descriptions are being used. Everyone who was interviewed agreed that Fredericksburg was in the "Hill Country" and all literature published by the State of Texas clearly shows that Fredericksburg is in the "Hill Country." Therefore, we do not believe that use of the name "Fredericksburg in the Texas Hill Country" is misleading in any way. As a result of the information obtained during our investigation, we have decided to approve the "Fredericksburg in the Texas Hill Country" viticultural area as proposed in the notice of proposed rulemaking.

#### Viticultural Area Name

The name "Fredericksburg" can be found on several U.S.G.S. maps of the area surrounding the city of Fredericksburg. The area around Fredericksburg is described in various newspaper and magazine articles, as well as brochures published by the State of Texas, as the "Texas Hill Country." Therefore, "Fredericksburg in the Texas Hill Country" is approved as the name for this viticultural area.

#### Local Viticultural History

Fredericksburg was founded May 8, 1846, by German immigrants under the auspices of the Society for the Protection of German Immigrants in Texas. The first colonization was of New Braunfels in 1845. A few years later, Fort Martin Scott was established southeast of Fredericksburg.

The Commissioner General of the Society, also known as the "Adelsverein," was Baron Ottfried Hans Von Meusebach, a German nobleman who took the name of John O. Meusebach once settled in Fredericksburg.

The city of Fredericksburg derived its name from German nobleman Prince Frederick of Prussia, who was the highest ranking member of the "Adelsverein." This society sponsored the colonization of the Fisher-Miller Grant in Central Texas. Vineyards were confined during this time to a very small number of Germans in the eastern settlements. The few vineyards which were established often drew favorable comments from observers, who foresaw a great future for this agricultural specialty.

More common was the practice of making wine from wild grapes, principally the variety known as the Mustang, which was found in abundance in the valleys of the Colorado, San Antonio, and Guadalupe rivers and their tributaries. The abundance of wild grapes convinced the early settlers that domesticated types

would also thrive, and vine clippings brought from Europe were planted by Germans in the very first year at New Braunfels and shortly thereafter around Castroville. Experiments continued for a number of years in the western settlements, including the hill on the north side of Fredericksburg, but in the end it was realized that the imported European vines would not grow properly in Texas, and viticulture was, with few exceptions, abandoned. A commercial winery existed as late as the post-World War II period in Fredericksburg, selling products made from wild grapes and berries, but the wine was made primarily for home use to satisfy a cultural beverage preference. Currently, present day technology has made viticulture a more practical venture than a century or so ago.

Consequently, recent efforts in viticulture in the Fredericksburg area show promise of producing a unique wine that will parallel and/or supplement the peach business for which the Fredericksburg area has long been well known.

#### Geographical/Climatological Features

The Fredericksburg in the Texas Hill Country viticultural area is distinguished from surrounding areas by differences in geography, soil and climate. These differences are based on the following:

##### (a) Geography

The Fredericksburg in the Texas Hill Country viticultural area is on the Edwards Plateau which is the result of the geological uplift phenomenon. The Pedernales watershed originates due west of Fredericksburg a few miles from the Gillespie-Kerr-Kimble county line at an elevation of 2,200 feet. The Pedernales River flows easterly to Lake Travis (below 700 feet elevation) which is a part of the Austin city water supply. The elevation of the viticultural area is between 1,500 and 1,900 feet. At an attitude above 1,900 feet, there is a greatly increased risk of spring frost.

The viticultural area is a "bowl" shaped area with a relatively flat bottom and relatively steep sides. It is the bottom of the bowl that is suitable for farming. There is no similar farming area for at least 100 miles west of Austin and San Antonio. Most of the surrounding area is ranching, not crops and orchards. The majority of the area, including the town of Fredericksburg, lies to the north of the Pedernales River.

##### (b) Soil

The soils of the viticultural area consist of the contiguous Luckenbach-

Pedernales-Heatly Soil Association which is on or near the Pedernales River and its tributaries at an approximate elevation of between 1,500 and 1,900 feet. These soils adjacent to the river, and the riverbed itself, near Fredericksburg contain an abundance of flint or chert which is hydrated silica from the ancient seabed that formed the Edwards Plateau. The Spanish word "Pedernale," from which the river derived its name, actually means "flintstone."

The higher elevations of the Pedernales River watershed are the source of the Alluvial Valley Soils of the viticultural area. The Luckenbach-Pedernales-Heatly Soil Association is composed of deep, sandy to loamy, gently sloping soils on uplands and terraces.

The Soil Conservation Service, U.S. Department of Agriculture, describes the Luckenbach-Pedernales-Heatly Soil Association as a sandy loam topsoil (mostly quartz with limited organic matter) over a reddish clay. This clay is high in the nutrients, phosphorus, potassium, and calcium, as well as other minerals. The red color is due to iron which helps peaches (and grapes) avoid a chlorotic condition. About one-half of this Soil Association in Gillespie County is cultivated. The crops are sorghums, small grain, peaches, grapes, and tame pasture. The remaining one-half is used for rangeland and wildlife habitat.

#### (c) Climate

The Fredericksburg area, at latitude 30 degrees north, is far enough south to escape harsh winters. At an elevation of 1,747 feet and a distance of more than 200 miles inland from the coast, the Fredericksburg area escapes the hot, humid summers characteristic of many southern climates. Summer temperatures are more characteristic of the High Plains than of southern Texas. Smog is unknown, and severe storms are very rare.

Total annual precipitation averages 27.44 inches. The lack of rainfall is due to the distance north and west of the Gulf of Mexico. A result of the dry climate is an abundance of sunshine which is a requirement for quality fruit. The dry climate also reduces disease problems. The Fredericksburg area is generally cooler than surrounding areas. Summer nights at Fredericksburg average four to five degrees Fahrenheit cooler than at lower elevations east of the Hill Country. The growing season (freeze-free period) in the Fredericksburg area averages 219 days. The average date of the last occurrence of 32 degrees in spring and the first occurrence in fall

are April 1 and November 6, respectively.

The altitude of the area serves two purposes. In winter there are over 850 hours per year at below 40 degrees Fahrenheit. This maintains a proper winter dormancy factor. A second altitude benefit is that of temperature change between night and day. A difference in temperature is required to properly mature a fruit. Because of the higher elevation of the Fredericksburg area, the temperature difference between night and day is more pronounced than in surrounding areas.

Weather maps published by the Bureau of Business Research at the University of Texas show that the viticultural area is located at or near departure or change points from surrounding areas for temperature, precipitation and relative humidity. The Fredericksburg area is generally cooler than areas to the north and east while about the same mean annual temperature as areas to the immediate south and west. The mean annual precipitation for the viticultural area is about the same as the area to the north, more than the area to the west, and less than the areas to the east and south. The mean annual relative humidity for the Fredericksburg area is about the same as the areas to the north and south, lower than the area to the east, and higher than the area to the west.

#### Boundaries

The boundaries proposed by the petitioner are adopted. An exact description of these boundaries is discussed in the regulations portion of this document. ATF believes that these boundaries delineate an area with distinguishable geographic and climatic features.

#### Miscellaneous

ATF does not wish to give the impression by approving the Fredericksburg in the Texas Hill Country viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct from surrounding areas, not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Fredericksburg in the Texas Hill Country wines.

#### Executive Order 12291

It has been determined that this final regulation is not a "major rule" within the meaning of Executive Order 12291,

46 FR 13193 (February 17, 1981), because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because the final rule will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities. Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

#### Disclosure

A copy of the petition, along with the appropriate maps with boundaries marked, is available for inspection during normal business hours at the following location: ATF Reading Room, Room 4412, Office of Public Affairs and Disclosure, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC.

#### Drafting Information

The principal author of this document is Robert L. White, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

#### List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

27 CFR Part 9 is amended as follows:

**PART 9—[AMENDED]**

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of sections in 27 CFR Part 9, Subpart C, is amended to add § 9.125 to read as follows:

**Subpart C—Approved American Viticultural Areas**

Sec.

\* \* \* \* \*

9.125 Fredericksburg in the Texas Hill Country.

\* \* \* \* \*

Par. 3. Subpart C of 27 CFR Part 9 is amended by adding § 9.125 to read as follows:

**§ 9.125 Fredericksburg in the Texas Hill Country.**

(a) *Name.* The name of the viticultural area described in this section is "Fredericksburg in the Texas Hill Country."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Fredericksburg in the Texas Hill Country viticultural area are six U.S.G.S. topographical maps of the 1:24,000 scale. They are titled:

- (1) Stonewall Quadrangle (1961);
- (2) Cain City Quadrangle (1963);
- (3) Fredericksburg East Quadrangle (1967, photorevised 1982);
- (4) Cave Creek School Quadrangle (1961);
- (5) Fredericksburg West Quadrangle (1967, photorevised 1982); and
- (6) Lady Bird Johnson Park Quadrangle (1964, photoinspected 1979).

(c) *Boundaries.* The Fredericksburg in the Texas Hill Country viticultural area is located entirely in Gillespie County, Texas, in the central part of the State approximately 80 miles west of Austin. The beginning point is on the Stonewall Quadrangle map near Blumenthal at a point on U.S. Route 290 approximately .1 mile east of bench mark (BM) 1504, at the junction of a light-duty road known locally as Jung Road.

- (1) From the beginning point, the boundary proceeds on Jung Road in a northwesterly direction across the Pedernales River.
- (2) Then northwesterly approximately 1 mile along Jung Road as it parallels the Pedernales River.
- (3) Then north along Jung Road approximately 3.9 miles to a point where Jung Road meets a medium-duty road known locally as Texas Ranch Road 2721.
- (4) Then westerly approximately .1 mile on Texas Ranch Road 2721 to a

point where it meets a medium-duty road known locally as Texas Ranch Road 1631.

(5) Then northeasterly along Texas Ranch Road 1631 approximately 1 mile to a point where Texas Ranch Road 1631 crosses the 1,800-foot contour line.

(6) Then northwesterly in a meandering manner along the 1,800-foot contour line to the point where the 1,800-foot contour line crosses State Route 16.

(7) Then in a generally westerly direction along the 1,800-foot contour line to the point where the 1,800-foot contour line crosses State Route 965.

(8) Then in a northwesterly and then generally a southeasterly direction along the 1,800-foot contour line to a point where the 1,800-foot contour line goes just south of the Kordzik Hills approximately 1 mile due east of the city of Fredericksburg.

(9) Then continuing on the 1,800-foot contour line in a generally northwesterly, southerly, and again northwesterly direction to the point where the 1,800-foot contour line crosses Loudon Road approximately 4 miles northwest of Fredericksburg.

(10) Then continuing on the 1,800-foot contour line in a northwesterly, then generally a southeasterly, westerly and finally a southerly direction to a point where the 1,800-foot contour line crosses a light-duty road known locally as Hayden Ranch Road about 50 yards north of Texas Ranch Road 2093.

(11) Then 50 yards south on Hayden Ranch Road to Texas Ranch Road 2093 and then east on Texas Ranch Road 2093 approximately .15 mile to an unimproved, southbound, gravel and dirt county road known locally as Beverly Gold's Road.

(12) Then approximately 2.6 miles south on Beverly Gold's Road to a point where it joins Texas State Route 16.

(13) Then approximately 1.5 miles northeast on State Route 16 to a light-duty county road known locally as Bear Creek Road.

(14) Then approximately 1 mile in a southeasterly, northeasterly, and then a southerly direction along Bear Creek Road to the point where the road crosses the 1,700-foot contour line.

(15) Then in a generally easterly direction for approximately 10 miles along the 1,700-foot contour line to a point where the 1,700-foot contour line crosses Texas Ranch Road 1376.

(16) Then approximately 3.1 miles southeast along Texas Ranch Road 1376 to a light-duty road at Luckenbach known locally both as Kunz-Klien Road and Luckenbach Road.

(17) Then approximately 1.3 miles in a generally northeasterly and then an easterly direction along Luckenbach

Road and continuing along Luckenbach Road in a northerly direction about 2.5 miles to the point where Luckenbach Road joins U.S. Route 290.

(18) Then west approximately .2 mile on U.S. Route 290 to the intersection with Jung Road, the point of beginning.

November 4, 1988.

Stephen E. Higgins,  
Director.

Approved: December 2, 1988.

John P. Simpson,  
Deputy Assistant Secretary (Regulatory,  
Trade and Tariff Enforcement).

December 2, 1988.

[FR Doc. 88-29317 Filed 12-21-88; 8:45 am]

BILLING CODE 4810-31-M

**DEPARTMENT OF JUSTICE**

**28 CFR Part 16**

[AAG/A Order No. 26-88]

**Exemption of Records Systems Under the Privacy Act**

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Department of Justice is exempting a Privacy Act system of records from subsection (d) of the Privacy Act, 5 U.S.C. 552a. This system is the "Freedom of Information/Privacy Acts (FOI/PA) Request File (JUSTICE/OPA-003)." Records in this system contain copies of records requested from the "Executive Clemency Files (JUSTICE/OPA-001)" under the Freedom of Information/Privacy Acts and therefore relate to official Federal investigations and matters of law enforcement. The exemption is needed to protect ongoing investigations and the identities of confidential sources involved in such investigations.

**EFFECTIVE DATE:** December 22, 1988.

**FOR FURTHER INFORMATION CONTACT:** J. Michael Clark, (202) 272-6474.

**SUPPLEMENTARY INFORMATION:** A proposed rule with invitation to comment was published in the Federal Register on April 20, 1988 (53 CFR 12951). The public was given 30 days to comment. One comment was received which did not necessitate any change. A copy of the comment has been placed in the record.

This order relates to individuals other than small business entities. Nevertheless, pursuant to the requirement of the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, it is hereby stated that the order will not